

The 7th March, 1995

No. 14/13/87-6Lab./338.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala, in respect of the dispute between the workman and the management of Engineer-in-Chief, P. W. D., Public Health, Haryana, Chandigarh *versus* Sat Pal.

IN THE COURT OF SHRI S. R. BANSAL (ADDL. DISTT. AND SESSIONS JUDGE), PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 357 of 1989

WORKMAN SHRI SAT PAL, SON OF SHRI PRITAM SINGH, VILLAGE NURPUR,
P. O. BARROLA, TEHSIL AND DISTRICT AMBALA

And

THE MANAGEMENT OF ENGINEER-IN-CHIEF, P.W.D., PUBLIC HEALTH, HARYANA,
CHANDIGARH

(2) EXECUTIVE ENGINEER, P. W. D., PUBLIC HEALTH, WATER SUPPLY, AMBALA CANTT.

Present :

W.R. Shri J. R. Sharma.

M.R. Shri Raghubir Singh, ADA.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workman Shri Sat Pal and the management (1) Engineer-in-Chief, P. W. D., Public Health, Haryana, Chandigarh; (2) Executive Engineer, P. W. D., Public Health Water Supply, Ambala Cantt. to this court for adjudication, *vide* Haryana Government notification bearing No. 40432—37, dated 18th September, 1989 :—

“Whether the termination of the services of Shri Sat Pal is valid and justified ? If not so, to what relief is he entitled ?”

The workman raised an industrial dispute by serving a demand notice, dated 12th July, 1989 under section 2-A of the Act. The conciliation proceedings were taken up by the Labour Officer-cum-Conciliation Officer. The same, however, did not yield the desired result necessitating the making of the present reference.

On receipt of the reference notices were issued to the workman as well as to the management. The workman appeared and submitted his claim statement, dated 15th February, 1990. The stand taken by the workman is that he joined the management as chowkidar on 15th June, 1988 and his services were terminated on 30th June, 1989 without complying with the provisions of section 25-F of the Act. He, therefore, demanded his reinstatement with continuity of service and back wages.

On the other hand the stand of the management is that although the workman joined on 15th June, 1988 as daily wages but he did not render the service continuously but only with breaks and his work was also not upto the mark. It was pleaded that the workman himself left the job without any intimation. The management, therefore, pleaded for the rejection of the claim statement.

The workman submitted replication controverting the allegations of the management in the written statement filed and reiterating those made in the claim statement. On the rival contentions of the parties the following points in issues were laid down for decision,—*vide* order, dated 6th June, 1990 :—

- (1) Whether the impugned termination of services of the workman is invalid ? OPW
- (2) Relief.

Parties led evidence, I have heard the representatives of the parties. My issue-wise findings are as under :—

Issue No. 1 :

The date of the appointment of the workman with the management is not disputed. Shri Sat Pal, workman appeared as WW-I and stated that he joined with the management on 15th June, 1988 as chowkidar and his services were terminated on 30th June, 1989 without any prior notice, enquiry or payment of a retrenchment compensation. He also stated that after his termination sarvshri Sat Pal and Hernak were recruited. After stating about his unemployment he demanded his reinstatement with continuity of service. During cross-examination he denied the suggestion that he himself left the job. On the other hand the management examined MW-I Narinder Kumar Bindlish, S. D. O. of the management who stated that the workman worked for a period of 139 days and produced Ex. M-I photo copies of muster rolls and stated that the workman left the job voluntarily on 30th November, 1988. During cross-examination he admitted that there are four sub-divisions under the Executive Engineer, Public Health and he has brought the record pertaining only to the construction Sub Division. He could not say that the workman worked in other sub-divisions of Public Health, Ambala upto 30th June, 1989. The cross-examination was deferred and he was directed to produce the record pertaining to other sub-divisions. On an adjourned hearing the witness appeared and stated that the workman worked from December, 1988 to 30th June, 1989 in Public Health, Sub Division No. 3. As per statement given by him the workman worked for a period of 206 days in Public Health, Sub-Division No. 3 and he worked for a period of 139 days in Public Health Construction Sub Division. In all the workman worked for more than 300 days in a period preceding twelve months of his termination. He, thus, rendered more than 240 days of service continuously. It is admitted by the management that no charge-sheet or show-cause notice was served upon the workman nor any retrenchment compensation was paid. Evidently the termination of the services of the workman was in violation of section 25-F of the Industrial Disputes Act, 1947 which is mandatory in nature. Resultantly the termination is held to be illegal and the workman is held entitled to reinstatement with continuity of service. The representative of the workman has however agreed that he has no objection if the half of the back wages is allowed to the workman. This acceptance is in response to the request made to the representative of the management. It is accordingly held that the workman is entitled to 50% of the wages for the back period. The finding on this issue shall, the refore, stand returned in favour of the workman and against the management.

Relief :

In the end, it is held that the workman is entitled to reinstatement with continuity of service and back period wages to the extent of 50%.

The reference shall stand answered accordingly.

S. R. PANSAL,

Dated the 10th January, 1995.

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala.

Endorsement No. 103, dated the 25th January, 1995

Forwarded (four copies) to the Financial Commissioner and Secretary to Government of Haryana Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala.